



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/152093

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 10, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on October 15, 2013, at Kenosha, Wisconsin.

The issue for determination is whether Kenosha County Human Services (the agency) correctly determined Petitioner's FoodShare allotment.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Representative  
Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. Petitioner completed an on-line application for FoodShare benefits on June 27, 2013. (Testimony of Ms. Mayer; Exhibit 2)

3. On July 16, 2013, the agency sent Petitioner a notice indicating that her FoodShare benefits would be \$16 per month, effective July 1, 2013. (Exhibit 7)
4. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on September 12, 2013.
5. Petitioner has a household size of 2. (Testimony of Petitioner)
6. She is responsible for utilities and pays rent in the amount of \$650.00 per month. (Testimony of Petitioner; Exhibit 6)
7. No one in the household is elderly, blind or disabled. (Testimony of Petitioner)
8. Petitioner receives child support in the amount of \$205.24 every other week. (Testimony of Petitioner; Exhibit 4)
9. Petitioner earns \$800.00 every other week (Testimony of Petitioner; Exhibit 3)

### **DISCUSSION**

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FSH § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH §4.1.1.*

Income for FoodShare is calculated using 4.3 weeks per month, or 2.15 bi-weekly pay periods per month. *Process Help §16.4.1; Process Help §16.4.1; see also Ops Memo 01-01.*

Petitioner's income is calculated as follows:

Child support: \$205.24 bi-weekly x 2.15 average bi-weekly pay periods per month = \$441.27

Earned income: \$800 bi-weekly x 2.15 average bi-weekly pay periods per month = \$1720.00

Total monthly income: \$1720.00 + \$441.27 = \$2161.27

Once a household passes the gross income test the following deductions are applied to determine the FoodShare allotment: (*FSH, at § 4.6*):

- (1) a standard deduction –

This was \$149 per month for a household of 1-3 people during the time in question, *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;

For Petitioner, this is  $\$1720 \times .20 = \$344$

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;

- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

During the time in question, the heating standard utility allowance (HSUA) was \$442 per month.

During the time in question there was a cap of \$469.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

*FSH, §§ 4.6.7.1 and 8.1.3.*

The term 'disabled' is a term with a definition as to the FoodShare program:

### **3.8.1.1 EBD Introduction**

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

*FSH, §3.8.1.1.*

Applying the foregoing to Petitioner we have the following net income calculation, effective September 1, 2012:

Gross Income	\$2161.27	Rent	\$650.00
Earned Income Deduction	-\$344.00	HSU	+\$442.00
Standard Deduction	-\$149.00	50% Net income	-\$834.14
No Medical Expenses exceeding \$35			
No Child Support paid		Excess Shelter Expense	\$257.86
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Net Income	\$1668.27		
Excess Shelter Expense	-\$257.86		
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Net Income	\$1410.41		

Individuals, in a household of two, with a net income of \$1410.41 qualified for a FoodShare allotment of \$16.00 per month during the time in question. *FSH §8.1.2.*

### **CONCLUSIONS OF LAW**

Kenosha County Human Services (the agency) correctly determined Petitioner's FoodShare allotment, effective July 1, 2013.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

## REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

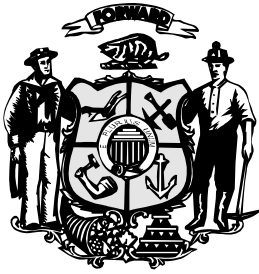
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 17th day of October, 2013.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 17, 2013.

Kenosha County Human Service Department  
Division of Health Care Access and Accountability